

Article - Environment

[\[Previous\]](#)[\[Next\]](#)

§4–401.

- (a) In this subtitle the following words have the meanings indicated.
- (b) “Cleanup” means abatement, containment, removal, and disposal of oil and the restoration of the environment to its existing state prior to a discharge.
- (c) (1) “Damages” means any damages for which liability exists under the laws of this State resulting from, arising out of, or related to the discharge or threatened discharge of oil.
 - (2) In addition, “damages” includes:
 - (i) The cost of assessing the damages;
 - (ii) Damages for injury to, destruction of, loss of, or loss of use of natural resources, including the reasonable costs of assessing the damage;
 - (iii) Damages for injury to or economic losses resulting from the destruction of real or personal property that shall be recoverable by a claimant who owns or leases that property;
 - (iv) Damages for loss of subsistence use of natural resources, that shall be recoverable by any claimant who so uses natural resources that have been injured, destroyed, or lost, without regard to the ownership or management of the resources;
 - (v) Damages equal to the net loss of taxes, royalties, rents, fees, or net profit shares due to the injury, destruction, or loss of real property, personal property, or natural resources, that shall be recoverable by the State or a political subdivision of the State;
 - (vi) Damages equal to the loss of profits or impairment of earning capacity due to the injury, destruction, or loss of real property, personal property, or natural resources, that shall be recoverable by any claimant; and
 - (vii) Damages for net costs of providing increased or additional public services during or after removal activities, including protection from fire, safety, or health hazards caused by a discharge of oil, that shall be recoverable by the State or a political subdivision of the State.

(d) “Discharge” means the addition, introduction, leaking, spilling, or emitting any oil to State waters or the placing of any oil in a location where it is likely to reach State waters.

(e) “Heating oil tank” means an aboveground or underground tank for the storage of heating oil for use as a fuel in heating a residential property.

(f) “Lender” means a person who is:

(1) A holder of a mortgage or deed of trust on a site or a security interest in property located on a site; or

(2) A holder of a mortgage or deed of trust who acquires title through foreclosure or deed in lieu of foreclosure.

(g) (1) “Management” means directing or controlling operations at a site or facility related to the storage or discharge of oil.

(2) “Management” does not include rendering advice on financial matters, rendering financial assistance, or actions taken to protect or secure a site or facility or property located on the site or at the facility, if the advice, assistance, or actions do not involve the storage, disposal, or remediation of discharged oil.

(h) (1) “Oil” means oil of any kind and in any liquid form including:

(i) Petroleum;

(ii) Petroleum by-products;

(iii) Fuel oil;

(iv) Sludge containing oil or oil residues;

(v) Oil refuse;

(vi) Oil mixed with or added to or otherwise contaminating soil, waste, or any other liquid or solid media;

(vii) Crude oils;

(viii) Aviation fuel;

(ix) Gasoline;

- (x) Kerosene;
- (xi) Light and heavy fuel oils;
- (xii) Diesel motor fuel, including biodiesel fuel, regardless of whether the fuel is petroleum based;
- (xiii) Asphalt;
- (xiv) Ethanol that is intended to be used as a motor fuel or fuel source; and

(xv) Regardless of specific gravity, every other nonedible, nonsubstituted liquid petroleum fraction unless that fraction is specifically identified as a hazardous substance under the Comprehensive Environmental Response, Compensation, and Liability Act of 1980, 42 U.S.C. § 9601 et seq.

(2) “Oil” does not include:

- (i) Liquefied propane;
- (ii) Liquefied natural gas; or
- (iii) Any edible oils.

(i) (1) “Oil storage facility” means any installation, structure or premises, aboveground or underground, in which oil is stored.

(2) “Oil storage facility” does not include any tank on a farm or private residence with a capacity to store 1,100 gallons or less of motor fuel or heating oil for noncommercial or personal use or any vessel.

(j) (1) “Person responsible for the discharge” includes:

- (i) The owner of the discharged oil;
- (ii) The owner, operator, or person in charge of the oil storage facility, vessel, barge, or vehicle involved in the discharge at the time of or immediately before the discharge; and
- (iii) Any other person who through act or omission causes the discharge.

(2) “Person responsible for the discharge” does not include:

(i) A person who, without participating in the management of an underground oil storage tank, and who otherwise is not engaged in petroleum production, refining, or marketing, holds indicia of ownership in an underground oil storage tank primarily to protect its security interest in that underground oil storage tank if that person:

1. Has not foreclosed on its security interest in the underground oil storage tank; or

2. Abandoned that underground oil storage tank under regulations of the Department within 180 days of acquiring the tank through foreclosure or other means;

(ii) A holder of a mortgage or deed of trust who acquires title to a property that is subject to a corrective action plan approved by the Department under this subtitle provided that the holder complies with the requirements, prohibitions, and conditions of the plan;

(iii) Subject to paragraph (3) of this subsection, a lender who extends credit for the performance of removal or remedial actions conducted in accordance with requirements imposed under this title who:

1. Has not caused or contributed to a discharge of oil;
and

2. Previous to extending that credit, is not a person responsible for the discharge at the site; or

(iv) Subject to paragraph (3) of this subsection, a lender who takes action to protect or preserve a mortgage or deed of trust on a site or a security interest in property located on a site at which a discharge of oil has occurred, by stabilizing, containing, removing, or preventing the discharge of oil in a manner that does not cause or contribute to a discharge of oil if:

1. The lender provides advance written notice of its actions to the Department or in the event of an emergency in which action is required within 2 hours, provides notice by telephone;

2. The lender, previous to taking the action, is not a person responsible for the discharge at the site; and

3. The action does not violate a provision of this article.

(3) A lender taking action to protect or preserve a mortgage or deed of trust or security interest in property located on a site, who causes or contributes to a discharge of oil shall be liable solely for costs incurred in response to the discharge which the lender caused or to which the lender contributed unless the lender was a person responsible for the discharge before acquiring a mortgage, deed of trust, or security interest in the site or property located on the site.

(k) “Removal costs” means the costs of removal that are incurred after a discharge of oil has occurred or, in any case where there is a substantial threat of a discharge of oil, the costs to prevent, minimize, or mitigate oil pollution from such an incident.

(l) (1) “Underground oil storage tank” means one or more tanks including underground pipes connected to tanks, with a volume of 10 percent or more beneath the surface of the ground.

(2) “Underground oil storage tank” does not include a:

(i) Tank on a farm or private residence with a capacity to store 1,100 gallons or less of motor fuel or heating oil for noncommercial or personal use;

(ii) Septic tank;

(iii) Pipeline facility, including gathering lines, regulated under 49 U.S.C. 60101, et seq.;

(iv) Intrastate pipeline facility regulated under State laws comparable to the provisions of the law referred to in item (iii) of this paragraph;

(v) Surface impoundment, pit, pond, or lagoon;

(vi) Stormwater or wastewater collection system;

(vii) Flow-through process tank;

(viii) Storage tank situated in an underground area, such as a basement, cellar, mineworking, drift, shaft, or tunnel if the storage tank is situated upon or above the surface of the floor; or

(ix) Pipe connected to any tank described in items (i) through (viii) of this paragraph.

[\[Previous\]](#)[\[Next\]](#)